

REMARKS

The Office action of July 21, 2010, has been carefully considered.

Claims 1, 6, 8, 12, 16, 19, 20, 23, 27, 28, 30 and 31 have been rejected under 35 USC 103(a) over Richardson in view of Lund et al. In addition, Claim 2 has been rejected over Richardson and Lund et al in view of McGuinness, Claims 9-11 and 13 have been rejected as obvious over Richardson and Lund et al in view of Wen, Claims 15 and 29 have been rejected under 35 USC 103(a) over Richardson and Lund et al in view of Courtney and Claims 32 and 33 have been rejected under 35 USC 103(a) over Richardson and Lund et al in view of Nur et al.

The invention as claimed is directed to a two-part mask assembly where the two-part assembly consists essentially of a first part which is a mask in the form of a hood flat foldable to pocket size that when unfolded can cover the entire head, the mask consisting essentially of a single bag made of transparent film impermeable to gases, a filter assembly and an exhalation valve. The second part of the two-part assembly is at least one separate circumferential elastic sealing and adjusting band not connected to the bag, to adjust and seal the hood around the neck.

The invention as claimed is not disclosed or suggested by Richardson and Lund et al.

The Office action takes the position that Richardson discloses a two-part mask assembly where the first part is a mask formed as a hood covering the entire head with a filter and an exhalation valve, and the second part is separate sealing means 60. The Office action further alleges that "Richardson is silent as to the sealing means being a separate circumferential elastic sealing means not connected to the bag."

In fact, Richardson is not at all silent on this point. Richardson actually discloses two sealing means, one being a

chin strap 64 and the other being a drawstring 60. The stretchable strap 64 is clearly attached to the hood, and can be pulled beneath the user's chin, as shown in Figure 2, and as described at column 6, lines 34-35.

As to the drawstring 60, "[t]his draw strap is comprised of a string that extends around the neck area of the hood, preferably through a channel between two layers of material" (Column 4, lines 33-35). This is what is shown in the drawings of Richardson, with a drawstring extending through a channel and is different from the separate elastic sealing band as presently claimed.

Thus, as noted, Richardson is not silent about separate sealing means, but clearly teaches two sealing means, both of which are attached to the bag. Richardson therefore teaches away from the invention.

The Office action further takes the position that Lund et al, in a similar protective hood, discloses a separate circumferential elastic sealing and adjusting band comprising an elastic band 11. Applicant points out, however, that Lund et al also does not disclose a two-part assembly. Lund et al actually discloses that in order to hold the mask against the head, an elastic net 10 is necessary, separate from the hood and the band, and this net must be used in combination with an elastic band 11 to secure the hood to the head. Moreover, this elastic band is described as a "tape or band member 11," preferably provided with an elastic pad-like layer which can press the hood material against the neck of the wearer over its complete periphery despite the uneven shape of the neck surface; see Column 4, lines 25-29. However, as noted in the previous response, and as recognized in the Office action, Lund et al does not actually disclose whether the tape or band member is an element of the hood. The only suggestion as to its structure is in Claim 1, which recites "seal means on said hood operable to circumferentially engage the neck of the

wearer to seal the hood thereto." Thus, from Claim 1, it would appear that the seal means form a part of the hood and is not entirely separate therefrom.

The Office action recognizes this point, but alleges that the "Examiner contends that whether the band is attached to the hood or completely separate is considered an obvious design consideration to one of ordinary skill in the art for allowing precise placement of the band in a comfortable location or to better adjust for different neck sizes." What the Examiner has alleged to be a mere matter of design choice, however, has been found by Applicant to be an important element of the invention. Thus, by making the elastic band an entirely separate element of the escape mask, it is possible to make the mask completely adjustable, enabling thereby placement of the exhalation valve directly opposite the nose and mouth of the user, and further enabling minimizing the air space within the hood.

This arrangement makes it possible for the escape mask of the invention to be used with a wide variety of head shapes and sizes. If the claimed arrangement were such an obvious design choice, one would expect to see it in all prior art references, but it is not seen in all prior art references, but, in fact, the arrangement is only taught by the present application. The advantages of the separate sealing band are very much the *unexpected result* referred to in the Office action.

Accordingly, to arrive at the claimed invention starting with the mask of Richardson, one would need to completely eliminate the chin strap of Richardson, and replace the drawstring threaded through the mask of Richardson with a separate elastic circumferential sealing band, which is not even clearly disclosed by Lund et al. There is, however, no reason for making such a substitution. Lund et al teaches holding the mask to the head both with a band and with an

elastic net shroud, and there is no reason why one of ordinary skill in the art would ignore the required shroud of Lund et al and select only the band. Applicant submits that if any substitution were made, one would replace the chin strap of Richardson with the elastic shroud, and this would also be clearly contrary to the invention.

While Lund et al does disclose the importance of sealing the protective hood around the neck of the wearer by means of an elastic tape-formed closing member, Lund et al does not disclose why such an arrangement would be superior to the drawstring of Richardson, or disclose or suggest the importance of using a separate closing member to make the mask entirely adjustable around the head of the user, to minimize air space and to place the exhalation valve directly opposite the nose and mouth of the user.

Thus, the combination of Richardson with Lund et al does not result in the claimed invention.

The other cited references have been discussed in detail previously, and Applicant relies on the prior discussions.

Withdrawal of these rejections is requested.

An early allowance of the application is earnestly solicited.

Respectfully submitted,



Ira J. Schultz
Registration No. 28666
Attorney for Applicant
(703)837-9600, Ext. 23

Dennison, Schultz & MacDonald
1727 King Street, Suite 105
Alexandria, VA 22314